

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DAVID ENNOCENTI AND JON STEWART,  
on behalf of themselves and all  
other employees similarly situated,

Plaintiffs,

v.

12-CV-6367

**ORDER**

UNISYS TECHNICAL SERVICES, LLC,  
AND THE UNISYS CORPORATION

Defendants,

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The Court has received Plaintiffs' request to file a sur reply in response to affidavits and evidence filed for the first time in Defendants' reply papers in further support of their second motion to dismiss for failure to state a claim. The Court finds that it is unnecessary to grant Plaintiffs' request to file a sur reply. Plaintiffs have adequately responded to Defendants' arguments in their opposition papers and the Court will disregard any material upon which the Defendants rely in their reply briefs which is either inappropriate on a motion to dismiss or which should have been but was not first presented in their motion papers. Accordingly, Plaintiffs' request is denied.

**ALL OF THE ABOVE IS SO ORDERED.**

S/ MICHAEL A. TELESKA  
HON. MICHAEL A. TELESKA  
United States District Judge

Dated: Rochester, New York  
December 28, 2012